

UNITED STATES DISTRICT COURT

for the  
Southern District of South Dakota

Howell DEAN O'BRYAN JR.  
Petitioner

v.

J.W. COX in his Capacity as Warden  
of Yankton Federal Prison Camp  
Respondent

(name of warden or authorized person having custody of petitioner)

Case No.

21-4052

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Howell DEAN O'Bryan Jr.  
(b) Other names you have used:
2. Place of confinement: Federal Prison Camp Yankton South Dakota  
(a) Name of institution: Yankton FPC  
(b) Address: P.O. Box 700 Yankton, SD 57078  
(c) Your identification number: #16234-033
3. Are you currently being held on orders by:  
☒ Federal authorities      ☐ State authorities      ☐ Other - explain:
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:  
(a) Name and location of court that sentenced you: Western District of Kentucky  
Bowling Green  
(b) Docket number of criminal case: 1:15-cr-00028 GNS  
(c) Date of sentencing: 8/15/2017  
☐ Being held on an immigration charge  
☐ Other (explain):

**Decision or Action You Are Challenging**

5. What are you challenging in this petition:

- ☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Federal Prison Camp - Yankton, SD
- (b) Docket number, case number, or opinion number: 1330.18 BOP Program Statement BP-8
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
Asked to redeem All First Step Act "Emergent Time" credits which are owed under the First Step Act, 18 U.S.C. 3632(d)(4)(A) and was denied.
- (d) Date of the decision or action: 10-28-2020

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: U.S. Department of Justice - FBOP
- (2) Date of filing: 10-28-2020
- (3) Docket number, case number, or opinion number: Administrative Remedy BP-9<sup>#</sup>1055321-F1
- (4) Result: Denied
- (5) Date of result: 11-10-2020
- (6) Issues raised: Same as 6 (c)

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: U.S. Department of Justice - FBOP

(2) Date of filing: 11-17-2020

(3) Docket number, case number, or opinion number: Administrative Remedy BP-10 #1055321-R1

(4) Result: DENIED

(5) Date of result: 12/31/2020

(6) Issues raised: SAME AS 6 (C)

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: U.S. Department of Justice - FBOP

(2) Date of filing: 1-13-2021

(3) Docket number, case number, or opinion number: Administrative Remedy BP-11 1055321-R1

(4) Result: No Response from Center / Office

(5) Date of result: 3-29-21

(6) Issues raised: Policy states a no response is considered a denial.  
SAME AS 6 (C)

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?  
☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (4) Date of result: \_\_\_\_\_
- (5) Issues raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12.

**Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

Petition for a Writ of Habeas Corpus U.S.C. 2241

(b) Name of the authority, agency, or court:

United States District Court

Southern District of South Dakota - Sioux Falls

(c) Date of filing:

11-30-2020

(d) Docket number, case number, or opinion number:

CASE # 4:20-cv-04183-LLP

(e) Result:

Dismissed without prejudice for failure to exhaust remedies

(f) Date of result:

3-16-2021

(g) Issues raised:

Redemption of Unexpired Time Credits Applicable  
under the First Step Act passed 12-21-2018.

*Heath O'Ryan*

4-1-2021

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, Laws or treaties of the United States:

Petitioner requests application of Earned time credits under that First Step Act (FSA) which has been denied through the Administrative Remedy Process within the BOP. Petitioner has exhausted fully. Petitioner was assigned various Evidence-Based-Recidivism-Reduction (EBRR) programming and Productive Activities (PA) through his case manager which can be seen clearly in "Exhibit A". Also attached is "Exhibit B, Exhibit C, Financial statements etc. Petitioner will explain the Unit Team process and supporting factors of each exhibit for better understanding of the process for the courts.

Each inmate is assigned a Unit Team. The unit team consists of three people. A Unit Manager, a counselor, and a Case manager. The case manager does an assessment of each inmate every six months called "Team".

During each Team each inmate is assigned programming and productive activities. Each inmate is given a copy labeled "Individualized-Re-entry-Program-Review" from each and every team that takes place (Exhibit A) which is known as the "Team Sheet".

The team sheet is a list of assigned work assignments, education courses, drug treatment assignments, assigned progress review, next assigned program review goals, assigned long term goals, and various other topics such as discipline history.

Exhibit A has six Team Sheets with the following dates 8-15-2018, 6-12-2019, 11-27-2019, 5-6-2020, 10-21-2020 and 3/31/2021. These dated Team Sheets cover the entire period from the Date of Enactment of the FSA 12-21-2018 up to the current date. They include all of the EBRR and PA assigned to the petitioner by petitioners case manager and BOP staff working in coordination with my case manager.

Exhibit B is a list promulgated by the BOP and released to the inmate population on 2-24-2020 labeled "Evidence-Based-Recidivism-Reduction (EBRR) program and Productive Activities (PA).

Exhibit C is a copy of 3635 definitions which include the terms Evidence-Based-Recidivism-Reduction programs and Productive Activity.

The following is a list of assigned work assignments (Prison Job), Vocational Training, substance abuse treatment, and more both completed as well as still in progress by the petitioner, all of which had been assigned to the petitioner by the case manager, which can be found in all six team sheets under the following categories: Progress since last review.....Next program review goals.... and Long term review goals which can be found on the last page of all six team sheets. (Exhibit A)

The following list of assigned EBRR and PA also meet the requirements of (Exhibit B) promulgated by the BOP. Please pay special attention to the paragraph at the top of the page on page one. You will also find the following fall under the definitions stated in (Exhibit C) which are the definitions of EBRR and PA found in the FSA Law.

#### ASSIGNED WORK ASSIGNMENTS:

LAND 1	12-21-2018 TO 5-20-2019
R & D ORDERLY	6-01-2019 TO 7-15-2019
CHAPEL ORDERLY	7-15-2019 TO 10-01-2019
VISITING ROOM ORDERLY	10-01-2019 TO 10-01-2020
DURAND ORDERLY	10-01-2020 TO CURRENT

#### PROGRAMS ASSIGNED:

-MOUNT MARTY UNIVERSITY (MMU)	12-21-2018 TO 3-21-2019
RPP COMMUNITY RESOURCES #4	6-03-2019 TO 3-11-2020
RDAP	3-17-2020 TO 3-17-2021
RDAP FOLLOW UP	7-18-2019 TO 7-18-2019
(MMU) RPP4 COLLEGE ORIENTATION	8-26-2019 TO 12-10-2019
(MMU) PRINCIPLES OF MARKETING	8-27-2019 TO 12-12-2019
(MMU) INTRODUCTION TO BUSINESS	8-29-2019 TO 12-13-2019
(MMU) ACCOUNTING I	8-29-2019 TO 12-14-2019
(MMU) BUSINESS APPLICATION & SYSTEMS	12-03-2019 TO 12-20-2019
BASICS OF BIBLICAL HEBREW	1-15-2020 TO 5-08-2020
(MMU) ACCOUNTING II	1-13-2020 TO 5-08-2020
(MMU) PRINCIPLES OF MANAGEMENT	1-16-2020 TO 5-08-2020
(MMU) INTRODUCTION TO SOCIOLOGY	1-16-2020 TO 5-08-2020
(MMU) HUMAN RESOURCE MANAGEMENT	8-26-2020 TO 11-30-2020
(MMU) INTRODUCTION TO HORTICULTURE	8-28-2020 TO 11-30-2020
(MMU) MANAGERIAL ACCOUNTING	8-28-2020 TO 11-30-2020
(MMU) 20 HRS SERVICE TO THE COMMUNITY	1-16-2021 TO CURRENT
(MMU) GREENHOUSE OPERATIONS	1-16-2021 TO CURRENT
(MMU) INTRODUCTION TO CHRISTIANITY	1-16-2021 TO CURRENT
(MMU) LEGAL ENVIRONMENT OF BUSINESS	1-16-2021 TO CURRENT
(MMU) BASIC SKILLS IN INFORMATION TECHNOLOGY	1-16-2021 TO CURRENT

15. State exactly what you want the court to do:

The Petitioner is requesting the court to order immediate application of Earned Time Credits of 27 months resulting in 13.5 months credit due to Petitioner being assessed a PATTERN score of low for two consecutive assessments qualifying him for 15 days of time credits for every 30 days as clearly stated in the First Step Act. Petitioner seeks relief under 3624(g)(2) prerelease custody which will add additional 13.5 months to my already given Home Detention Eligibility Date of 8/23/2021 which would put the Petitioner way past his release date and that petitioner has been held over 9 months past his lawful release date.

If you are incarcerated, on what date did you place this petition in the prison mail system:

~~4/1/2021~~ <sup>HO</sup> 4/1/2021

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

~~4/1/2021~~ <sup>HO</sup> 4/1/2021

Howell Dean O. Bryan Sr.

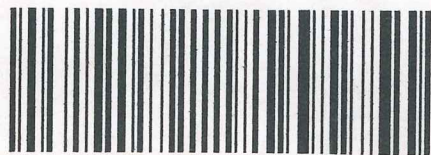
Howell Dean O. Bryan Jr.

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Hewell O'Brien # 16234-033  
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CERTIFIED MAIL®



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X-RAYED BY  
SOUTH DAKOTA  
CSO



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Sioux Falls, SD 57104  
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BC  
4-3-21